

SIERRA CHARTER SCHOOL

TITLE IX, HARASSMENT, INTIMIDATION, DISCRIMINATION & BULLYING

Discrimination, sexual harassment, harassment, intimidation, and bullying are all disruptive behaviors that interfere with students' ability to learn, negatively affect student engagement, diminish school safety, and contribute to a hostile school environment. As such, Sierra Charter School ("SCS") prohibits any acts of discrimination, sexual harassment, harassment, intimidation, and bullying altogether. This Policy is inclusive of instances that occur on any area of the school campus, at school-sponsored events and activities, regardless of location, through school-owned technology, and through other electronic means.

As used in this Policy, discrimination, sexual harassment, harassment, intimidation, and bullying are described as the intentional conduct, including verbal, physical, written communication, or cyber-bullying, including cyber sexual bullying, based on the actual or perceived characteristics of mental or physical disability, sex (including pregnancy and related conditions and parental status), sexual orientation, gender, gender identity, gender expression, immigration status, nationality (including national origin, country of origin, and citizenship), race or ethnicity (including ancestry, color, ethnic group identification, ethnic background, and traits historically associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locks and twist), religion (including agnosticism and atheism), religious affiliation, medical condition, genetic information, marital status, age or association with a person or group with one or more of these actual or perceived characteristics or based on any other characteristics protected under applicable state or federal law or local ordinance. Hereafter, such actions are referred to as "misconduct prohibited by this Policy".

To the extent possible, SCS will make reasonable efforts to prevent students from being discriminated against, harassed, intimidated and/or bullied, and will take action to investigate, respond, address and report on such behaviors in a timely manner. SCS staff that witness acts of misconduct prohibited by this Policy will take immediate steps to intervene when safe to do so.

Moreover, SCS will not condone or tolerate misconduct prohibited by this Policy by any employee, independent contractor or other person with whom SCS does business, or any other individual, student or volunteer. This Policy applies to all employees, students or volunteer actions and relationships, regardless of position or gender. SCS will promptly and thoroughly investigate and respond to any complaint of misconduct prohibited by this Policy and will take appropriate corrective action, if warranted. SCS complies with all applicable state and federal laws and regulations and local ordinances in its investigation of and response to reports of misconduct prohibited by this Policy.

Title IX, Harassment, Intimidation, Discrimination and Bullying Coordinator ("Coordinator")

**Lisa Marasco, Principal/CEO
1931 N. Fine Avenue
Fresno, CA. 93727**

Definitions

Prohibited Unlawful Harassment

- Verbal conduct such as epithets, derogatory jokes or comments or slurs
- Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with work or school because of sex, race or any other protected basis
- Retaliation for reporting or threatening to report harassment
- Deferential or preferential treatment based on any of the protected ~~classes~~-characteristics listed above

Prohibited Unlawful Harassment under Title IX

Title IX (20 U.S.C. § 1681 *et. seq*; 34 C.F.R. § 106.1 *et. seq*) and California state law prohibit discrimination and harassment on the basis of sex. In accordance with these existing laws, discrimination and harassment on the basis of sex in education institutions, including in the education institution's admissions and employment practices, is prohibited. All persons, regardless of sex, are afforded equal rights, opportunities, and freedom from unlawful discrimination and harassment in education programs or activities conducted by SCS.

SCS is committed to providing a work and educational environment free of sexual harassment and considers such harassment to be a major offense, which may result in disciplinary action. Inquires about the application of Title IX and 34 C.F.R. Part 106 may be referred to the Coordinator.

Sexual harassment consists of conduct on the basis of sex, including but not limited to unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct on the basis of sex, regardless of whether or not the conduct is motivated by sexual desire when:

1. Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, education, academic status, or progress;
2. Submission to, or rejection of, the conduct by the individual is used as the basis of employment, educational or academic decisions affecting the individual;
3. The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment; and/or
4. Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

It is also unlawful to retaliate in any way against an individual who has articulated a good faith concern about sexual harassment against themselves or against another individual.

Sexual harassment may include, but is not limited to:

- Physical assaults of a sexual nature, such as:

- Rape, sexual battery, molestation or attempts to commit these assaults.
- Intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another's body, or poking another's body.
- Unwanted sexual advances, propositions or other sexual comments, such as:
 - Sexually oriented gestures, notices, remarks, jokes, or comments about a person's sexuality or sexual experience.
 - Preferential treatment or promises of preferential treatment to an individual for submitting to sexual conduct, including soliciting or attempting to solicit any individual to engage in sexual activity for compensation or reward or deferential treatment for rejecting sexual conduct.
 - Subjecting or threats of subjecting a student or employee to unwelcome sexual attention or conduct or intentionally making the student or employee's performance more difficult because of the student's or employee's sex.
- Sexual or discriminatory displays or publications anywhere in the workplace or educational environment, such as:
 - Displaying pictures, cartoons, posters, calendars, graffiti, objections, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning or pornographic or bringing or possessing any such material to read, display or view in the work or educational environment.
 - Reading publicly or otherwise publicizing in the work or educational environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic.
 - Displaying signs or other materials purporting to segregate an individual by sex in an area of the work or educational environment (other than restrooms or similar rooms).

The illustrations of harassment and sexual harassment above are not to be construed as an all-inclusive list of prohibited acts under this Policy.

Bullying is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act. Bullying includes one or more acts committed by a student or group of students that may constitute sexual harassment, hate violence or creates an intimidating and/or hostile educational environment, directed toward one or more students that has or can be reasonably predicted to have the effect of one or more of the following:

- Placing a reasonable student¹ or student in fear of harm to that student's or that student's person or property.
- Causing a reasonable student to experience a substantially detrimental effect on their physical or mental health.
- Causing a reasonable student to experience a substantial interference with their academic performance.
- Causing a reasonable student to experience a substantial interference with their ability to participate in or benefit from the services, activities, or privileges provided by SCS.

¹ "Reasonable student" is defined as a student, including, but not limited to, an exceptional needs student, who exercises care, skill and judgment in conduct for a person of their age, or for a person of their age with their exceptional needs.

Cyberbullying is an electronic act that includes the transmission of harassing communication, direct threats, or other harmful texts, sounds, or images on the Internet, social media, or other technologies using a telephone, computer, or any wireless communication device. Cyberbullying also includes breaking into another person's electronic account and assuming that person's identity in order to damage that person's reputation.

Electronic act means the creation and transmission originated on or off the school site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer or pager of a communication, including, but not limited to, any of the following:

1. A message, text, sound, video, or image.
2. A post on a social network Internet Web site including, but not limited to:
 - a. Posting to or creating a burn page. A "burn page" means an Internet Web site created for the purpose of having one or more of the effects as listed in the definition of "bullying," above.
 - b. Creating a credible impersonation of another actual student for the purpose of having one or more of the effects listed in the definition of "bullying," above. "Credible impersonation" means to knowingly and without consent impersonate a student for the purpose of bullying the student and such that another student would reasonably believe, or has reasonably believed that the student was or is the student who was impersonated.
 - c. Creating a false profile for the purpose of having one or more of the effects listed in the definition of "bullying," above. "False profile" means a profile of a fictitious student or a profile using the likeness or attributes of an actual student other than the student who created the false profile.
3. An act of "Cyber sexual bullying" including, but not limited to:
 - a. The dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a student to another student or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in definition of "bullying," above. A photograph or other visual recording, as described above, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.
 - b. "Cyber sexual bullying" does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.
4. Notwithstanding the definitions of "bullying" and "electronic act" above, an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet

Formal Complaint of Sexual Harassment means a written document filed and signed by a complainant who is participating in or attempting to participate in SCS's education program or activity and requesting that SCS investigate the allegation of sexual harassment.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Bullying and Cyberbullying Prevention Procedures

SCS has adopted the following procedures for preventing acts of bullying, including cyberbullying;

1. Cyberbullying Prevention Procedures

SCS advises students:

- a. To never share passwords, personal data, or private photos online.
- b. To think about what they are doing carefully before posting and by emphasizing that comments cannot be retracted once they are posted.
- c. That personal information revealed on social media can be shared with anyone including parents, teachers, administrators, and potential employers. Students should never reveal information that would make them uncomfortable if the world had access to it.
- d. To consider how it would feel receiving such comments before making comments about others online.

SCS informs Charter School employees, students, and parents/guardians of SCS's policies regarding the use of technology in and out of the classroom. SCS encourages parents/guardians to discuss these policies with their children to ensure their children understand and comply with such policies.

2. Education

SCS employees cannot always be present when bullying incidents occur, so educating students about bullying is a key prevention technique to limit bullying from happening. SCS advises students that hateful and/or demeaning behavior is inappropriate and unacceptable in our society and at SCS and encourages students to practice compassion and respect each other.

3. Professional Development

SCS annually makes available the online training module developed by Safe Schools to its certificated employees and all other SCS employees who have regular interaction with students.

SCS informs certificated employees about the common signs that a student is a target of bullying including:

- Physical cuts or injuries
- Lost or broken personal items
- Fear of going to school/practice/games
- Loss of interest in school, activities, or friends
- Trouble sleeping or eating
- Anxious/sick/nervous behavior or distracted appearance
- Self-destructiveness or displays of odd behavior
- Decreased self-esteem

SCS also informs certificated employees about the groups of students to be at elevated risk for bullying. These groups include but are not limited to:

- Students who are lesbian, gay, bisexual, transgender, or questioning youth ("LGBTQ") and those youth perceived as LGBTQ; and
- Students with physical or learning disabilities.

Grievance Procedures

1. Scope of Grievance Procedures

SCS will comply with its Uniform Complaint Procedures (“UCP”) Policy when investigating and responding to complaints alleging unlawful harassment, discrimination, intimidation or bullying against a protected group or on the basis of a person’s association with a person or group with one or more of the protected characteristics set forth in the UCP that:

- a. Are written and signed;
- b. Filed by an individual who alleges that that individual has personally suffered unlawful discrimination, harassment, intimidation or bullying, or by one who believes any specific class of individuals has been subjected to discrimination, harassment, intimidation or bullying prohibited by this part, or by a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying; and
- c. Submitted to the SCS UCP Compliance Officer no later than six (6) months from the date the alleged unlawful discrimination, harassment, intimidation or bullying occurred, or the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying.

The following grievance procedures shall be utilized for reports of misconduct prohibited by this Policy that do not comply with the writing, timeline, or other formal filing requirements of a uniform complaint. For formal complaints of sexual harassment, SCS will utilize the following grievance procedures in addition to its UCP when applicable.

2. Reporting

All staff are expected to provide appropriate supervision to enforce standards of conduct and, if they observe or become aware of misconduct prohibited by this Policy, to intervene when safe to do so, call for assistance, and report such incidents. The Board requires staff to follow the procedures in this Policy for reporting alleged acts of misconduct prohibited by this Policy.

Any employee or student who believes they have been subject to misconduct prohibited by this policy or has witnessed such prohibited misconduct is encouraged to immediately report such misconduct to the Coordinator:

Lisa Marasco, Principal/CEO
1931 N. Fine Avenue
Fresno, CA. 93727
559-490-4290
[**lmarasco@sierracharter.org**](mailto:lmarasco@sierracharter.org)

Complaints regarding such misconduct may also be made to the U.S. Department of Education, Office for Civil Rights. Civil law remedies, including but not limited to, injunctions, restraining orders, or other remedies or orders may also be available to complainants.

While submission of a written report is not required, the reporting party is encouraged to submit a written report to the Coordinator. SCS will investigate and respond to all oral and written reports of misconduct prohibited by this Policy. Reports may be made anonymously, but formal disciplinary action cannot be based solely on an anonymous report.

Students are expected to report all incidents of misconduct prohibited by this Policy or other verbal or physical abuses. Any student who feels they are a target of such behavior should immediately contact a teacher, counselor, SCS administrator, Principal/CEO, Coordinator, a staff person or a family member so that the student can get assistance in resolving the issue in a manner that is consistent with this Policy.

SCS acknowledges and respects every individual's right to privacy. All reports shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process to the greatest extent possible. This includes keeping the identity of the reporter confidential, as appropriate, except to the extent necessary to comply with the law, carry out the investigation and/or to resolve the issue, as determined by the Coordinator or administrative designee on a case-by-case basis.

SCS prohibits any form of retaliation against any individual who files a report or complaint, testifies, assists, participates, or refuses to participate in any investigation or proceeding related to misconduct prohibited by this Policy. Such participation or lack of participation shall not in any way affect the status, grades or work assignments of the individual. Individuals alleging retaliation in violation of this Policy may file a grievance using the procedures set forth in this Policy. Knowingly making false statements or knowingly submitting false information during the grievance process is prohibited and may result in disciplinary action.

All supervisors of staff will receive sexual harassment training within six (6) months of their assumption of a supervisory position and will receive further training once every two (2) years thereafter. All staff and any individual designated as a coordinator, investigator or decision-maker will receive sexual harassment training and/or instruction concerning sexual harassment as required by law.

3. Supportive Measures

Upon the receipt of an informal or formal complaint of sexual harassment, the Coordinator will promptly contact the complainant to discuss the availability of supportive measures. The Coordinator will consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint of sexual harassment, and explain the process for filing a formal complaint of sexual harassment.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint of sexual harassment or where no formal complaint of sexual harassment has been filed. Such measures are designed to restore or preserve equal access to SCS' education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or SCS' educational environment, or deter sexual harassment. Supportive measures available to complainants and respondents may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. SCS will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of SCS to provide the supportive measures.

4. Investigation and Responses

Upon receipt of a report of misconduct prohibited by this Policy from a student, staff member, parent, volunteer, visitor or affiliate of SCS, the Coordinator or administrative designee will promptly initiate an investigation. In most cases, a thorough investigation will take no more than twenty five (25) school days. If the Coordinator or administrative designee determines that an investigation will take longer than twenty five (25) school days and needs to be delayed or extended due to good cause, the Coordinator or administrative designee will inform the complainant of the reasons for the delay or extension and provide an approximate date when the investigation will be complete.

At the conclusion of the investigation, the Coordinator or administrative designee will meet with the complainant and, to the extent possible with respect to confidentiality laws, provide the complainant with information about the investigation, including any actions necessary to resolve the incident/situation. However, the Coordinator or administrative designee will not reveal confidential information related to other students or employees.

For investigations of and responses to formal complaints of sexual harassment, the following grievance procedures will apply:

- **Notice of the Allegations**
 - Upon receipt of a formal complaint of sexual harassment, the Coordinator will give all known parties written notice of its grievance process, including any voluntary informal resolution process. The notice will include:
 - A description of the allegations of sexual harassment at issue and to the extent known, the identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident;
 - A statement that the respondent is presumed not responsible for the alleged conduct until a final decision is reached;
 - A statement that the parties may have an advisor of their choice, who may be an attorney, and may inspect and review evidence;
 - A statement that SCS prohibits an individual from knowingly making false statements or knowingly submitting false information during the grievance process.

- **Emergency Removal**
 - SCS may place a non-student employee respondent on administrative leave during the pendency of a formal complaint of sexual harassment grievance process in accordance with SCS' policies.
 - SCS may remove a respondent from SCS' education program or activity on an emergency basis, in accordance with SCS' policies, provided that SCS undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.
 - This provision may not be construed to modify any rights under the IDEA, Section 504, or the ADA.

- **Informal Resolution**
 - If a formal complaint of sexual harassment is filed, SCS may offer a voluntary informal resolution process, such as mediation, to the parties at any time prior to reaching a determination regarding responsibility. If SCS offers such a process, it will do the following:
 - Provide the parties with advance written notice of:
 - The allegations;
 - The requirements of the voluntary informal resolution process including the circumstances under which the parties are precluded from resuming a formal complaint of sexual harassment arising from the same allegations;
 - The parties' right to withdraw from the voluntary informal resolution process and resume the grievance process at any time prior to agreeing to a resolution; and
 - Any consequences resulting from participating in the voluntary informal resolution process, including the records that will be maintained or could be shared; and
 - Obtain the parties' advance voluntary, written consent to the informal resolution process.
 - SCS will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

- **Investigation Process**
 - The decision-maker will not be the same person(s) as the Coordinator or the investigator. SCS shall ensure that all decision-makers and investigators do not have a conflict of interest or bias for or against complainants or respondents.
 - In most cases, a thorough investigation will take no more than twenty-five (25) school days. If the investigator determines that an investigation will take longer than twenty-five (25) school days and needs to be delayed or extended due to in writing of the reasons for the delay or extension and provide an approximate date when the investigation will be complete.
 - The parties will be provided with an equal opportunity to present witnesses, to inspect and review any evidence obtained that is directly related to the allegations raised, and to have an advisor present during any investigative meeting or interview.
 - The parties will not be prohibited from discussing the allegations under investigation or to gather and present relevant evidence.
 - A party whose participation is invited or expected at an investigative meeting or interview will receive written notice of the date, time, location, participants, and purpose of the meeting or interview with sufficient time for the party to prepare to participate.
 - Prior to completion of the investigative report, SCS will send to each party and the party's advisor, if any, a copy of the evidence subject to inspection and review, and the parties will have at least ten (10) days to submit a written response for the investigator's consideration prior to the completion of the investigation report.
 - The investigator will complete an investigation report that fairly summarizes relevant evidence and send a copy of the report to each party and the party's advisor, if any, at least ten (10) days prior to the determination of responsibility.

- **Dismissal of a Formal Complaint of Sexual Harassment**
 - If the investigation reveals that the alleged harassment did not occur in SCS' educational program in the United States or would not constitute sexual harassment even if proved, the formal complaint with regard to that conduct must be dismissed. However, such a dismissal does not preclude action under another applicable SCS Policy.
 - SCS may dismiss a formal complaint of sexual harassment if:
 - The complainant provides a written withdrawal of the complaint to the Coordinator;
 - The respondent is no longer employed or enrolled at SCS; or
 - The specific circumstances prevent SCS from gathering evidence sufficient to reach a decision on the formal complaint or the allegations therein.
 - If a formal complaint of sexual harassment or any of the claims therein are dismissed, SCS will promptly send written notice of the dismissal and the reason(s) for the dismissal simultaneously to the parties.

- **Determination of Responsibility**
 - The standard of evidence used to determine responsibility is the preponderance of the evidence standard.
 - SCS will send a written decision on the formal complaint to the complainant and respondent simultaneously that describes:
 - The allegations in the formal complaint of sexual harassment;
 - All procedural steps taken including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
 - The findings of facts supporting the determination;
 - The conclusions about the application of SCS' code of conduct to the facts;
 - The decision and rationale for each allegation;
 - Any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant; and
 - The procedures and permissible bases for appeals.

5. Consequences

Students or employees who engage in misconduct prohibited by this Policy, knowingly make false statements or knowingly submit false information during the grievance process may be subject to disciplinary action. The Coordinator is responsible for effective implementation of any remedies ordered by SCS in response to a formal complaint of sexual harassment.

6. Right of Appeal

Should the reporting individual find SCS's resolution unsatisfactory, the reporting individual may within five (5) business days of notice of SCS' decision or resolution, submit a written appeal to the SCS Board, who will review the investigation and render a final decision.

The following appeal rights and procedures will also apply to formal complaints of sexual harassment:

- The complainant and the respondent shall have the same appeal rights and SCS will implement appeal procedures equally for both parties.
- SCS will notify the other party in writing when an appeal is filed.
- The decision-maker for the appeal will give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome; issue a written decision describing the result of the appeal and the rationale for the result; and provide the written decision simultaneously to both parties.

7. Recordkeeping

All records related to any investigation of complaints under this Policy are maintained in a secure location.

SCS will maintain the following records for at least seven (7) years:

- Records of each sexual harassment investigation, including any determination of responsibility; any audio or audiovisual recording or transcript; any disciplinary sanctions imposed on the respondent; and any remedies provided to the complainant.
- Records of any appeal of a formal sexual harassment complaint and the results of that appeal.
- Records of any informal resolution of a sexual harassment complaint and the results of that informal resolution.
- All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.
- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

A copy of this Policy is also available for review in the main office.

*Board Approved: 03/11/13
Board Amended: 09/12/17
Board Amended: 09/12/18
Board Amended: 06/10/21*



SIERRA CHARTER SCHOOL

TITLE IX, HARASSMENT, INTIMIDATION, DISCRIMINATION & BULLYING COMPLAINT FORM

Your Name: _____ Date: _____

Date of Alleged Incident(s): _____

Name of Person(s) you have a complaint against: _____

List any witnesses that were present: _____

Where did the incident(s) occur?

Please describe the events or conduct that are the basis of your complaint by providing as much factual detail as possible (i.e. specific statements; what, if any, physical contact was involved; any verbal statements; what did you do to avoid the situation, etc.) (Attach additional pages, if needed):

I hereby authorize the SCS to disclose the information I have provided as it finds necessary in pursuing its investigation. I hereby certify that the information I have provided in this complaint is true, correct, and complete to the best of my knowledge and belief. I further understand providing false information in this regard could result in disciplinary action up to and including termination.

Signature of Complainant Date: _____

Print Name

To be completed by SCS:

Received by: _____ Date: _____

Follow up Meeting with Complainant held on: _____